IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.102 OF 2006

Suresh Omkar Gupta @ Agarwal : Applicant.

versus

The State of Maharashtra : Respondent

Smt.Pranali Kakade h/f S.P.Hulyalkar for the applicant

Ms.Rajeshwari M. Gadhavi, APP, for the Respondent/State.

CORAM : V.M.KANADE, J.

DATED : 13th January 2006.

P.C.

1. The learned APP appearing on behalf of the Respondent/State has raised preliminary objection regarding maintainability of the present application. She has submitted that the present applicant has directly filed this

application in the High Court in stead of firstly approaching the Sessions Court. Therefore, she submitted that the applicant be directed to first approach to the Sessions Court.

2. Though under Section 438 of the Cr.P.C. having concurrent jurisdiction to both the Sessions Court and High Court, by convention, a practice has been followed by filing an application for anticipatory bail first before the Sessions Court and in the event the said application is rejected, then the applicant has liberty to approach the High Court.

3. In view of this matter, the applicant may prefer an application in the Sessions Court, Greater Bombay. The applicant undertakes to file such an application before the Sessions Court, Greater Bombay within one week. Applicant to remain present in the Sessions Court on the first date.

4. The learned APP submits that till 23.1.2006 the applicant shall not be arrested in connection with the offences mentioned in this application.

5. The applicant to obtain appropriate orders from the Sessions Court. The Sessions Court should not take the statement of the learned APP which is recorded by this Court as a ground for granting anticipatory bail and should decide the application on its own merit. This application is accordingly disposed of as withdrawn.

[V.M.KANADE,J]